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RELEASED IN FULL ^{L37}

Schnitker, John P

From: Orlando, Elizabeth A
Sent: Thursday, February 14, 2008 4:53 PM
To: Schnitker, John P; Kim, John J; 'White, Jim'; 'Richard.Fristik@wdc.usda.gov'; 'Dirk Shulund'; John_Cochnar@fws.gov
Cc: Lee, Harvey S (OES); Matuszak, John M (OES); 'KFreeman@entrix.com'; 'Jlsett@entrix.com'; Michael_Horton@fws.gov
Subject: Keystone Draft Letter of Intent cleaned up copy
Attachments: Keystone Draft Letter of Intent merge of tc fws rus TC COMMENTS (2).doc

CLEANED UP LETTER - PLEASE REVIEW
Let me know who would sign for your agency.

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Mr. John Cochran
Assistant Nebraska Field Supervisor
U.S. Fish & Wildlife Service
203 West Second Street
Grand Island, NE 68801

Re: Letter of Intent Regarding Endangered Species Act Section 7 Compliance with respect to Construction of Electrical Transmission Lines and Related facilities Providing Power to Pumping Stations Associated with the Keystone Pipeline Project

Dear Mr. Cochran:

The U. S. Department of State is in the final stages of considering an application by TransCanada Keystone Pipeline, L.P. (TransCanada) for a Presidential Permit pursuant to Executive Order 13337 to allow the company to construct, operate and maintain a pipeline and associated facilities at the border of the United States for the importation of crude oil from Canada. The Department of State (State) is charged with this responsibility pursuant to a delegation of authority from the President contained in this Executive Order.

In fulfilling this responsibility, State has elected to prepare an Environmental Impact Statement pursuant to the National Environmental Policy Act of 1969. State has closely coordinated with the Advisory Council on Historic Preservation to address concerns regarding the National Historic Preservation Act, and as you know, State has also worked closely with you and others at the Fish & Wildlife Service (Service) to ensure that there has been full compliance with Section 7 and other pertinent provisions of the Endangered Species Act (ESA). We are deeply grateful for your assistance in reviewing the preliminary final biological assessment that addresses pipeline construction and operation. In the very near future, we look forward to receiving your concurrence with our finding that the project may affect, but is not likely to adversely affect threatened or endangered species. We understand that there are some decisions that have yet to be made with respect to one related aspect of this project - the location and nature of electrical transmission lines that may be constructed by local power providers to supply power to operate the pumping stations for the pipeline. We believe it would be prudent to memorialize our joint intentions with respect to any ESA issues that may arise in connection with construction of such power lines and related facilities.

In this regard, we recognize the prospect that the Rural Utilities Service (RUS), an agency within the U.S. Department of Agriculture, may finance a portion of transmission line construction by local power providers, and note that electrical substation construction may be under the purview of the Western Area Power Administration (WAPA), a component of the U.S. Department of Energy. These agencies will address ESA issues once the local utilities decide on the tentative location of proposed transmission lines and related facilities. Accordingly, this letter memorializes the intent of State and the Service to enter into an appropriate Memorandum of Understanding (MOU) that includes as signatory parties State, RUS, WAPA TransCanada and the Service. The MOU will recite that it is not possible to make meaningful decisions respecting potential wildlife impacts of the anticipated power lines and related facilities at this time, and it

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will further provide that RUS, WAPA, and the Service shall complete their ESA Section 7 obligations, to the extent that they arise, as part of the federal decisionmaking associated with those power lines and related facilities.

Sincerely,

U.S. Department of State

U.S.D.A. R.U.S.

W.A.P.A.

TransCanada

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